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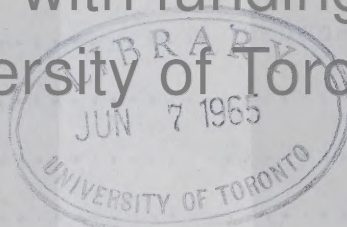
WORKMEN'S COMPENSATION IN CANADA  
A COMPARISON OF PROVINCIAL LAWS

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## WORKMEN'S COMPENSATION IN CANADA

A Comparison of Provincial Laws in September, 1948.

### Introduction

In all the Canadian provinces except Prince Edward Island, there is a statute providing that in any industry to which the Act or the main part of it applies, compensation shall be paid for personal injury to a workman by accident arising out of and in the course of employment or by an occupational disease specified in the Act or regulations except where the workman is disabled for less than a stated number of days or where the injury is attributable to his serious and wilful misconduct and does not result in death or serious disablement.

To ensure that this obligation shall be met, the Act provides for an Accident Fund administered by a provincial board to which employers are required to contribute. At any time a special assessment may be levied on employers to take care of compensation payments and in some provinces the money may be advanced from the provincial Treasury and repaid later from assessments. In all cases the province is responsible for the solvency of the Fund.

The right to compensation is not affected by the employer's neglect or refusal to furnish information or to pay his assessment or by his insolvency. A workman in an industry to which these provisions apply has no right of action against his employer for injury received in the course of employment.

This State system of workmen's compensation is one of collective liability on the part of employers. Industries are classified according to their hazard and each class is liable for the cost of accidents occurring in their class although for the purpose of compensation the Accident Fund is one.

In all the provinces, this compulsory State system of collective liability replaced that of individual liability as provided for in earlier statutes, but an individual liability Act is still in force to some extent in Alberta and Saskatchewan. The collective liability system of State insurance was adopted in Ontario in 1914 following a comprehensive report on employers' liability for accidents by a special commissioner appointed to inquire into the subject. Nova Scotia followed Ontario's example with variations in some points in 1915, British Columbia in 1916, Manitoba in 1916 in respect to collective liability but not State insurance until 1920, Alberta and New Brunswick in 1918, Saskatchewan in 1929 and Quebec in 1931. Amendments have been made in all these statutes from time to time. In New Brunswick, a new Act was passed in 1932; Nova Scotia revised its Act in 1938, and Alberta in 1943 and again in 1948. The situation in Prince Edward Island is described below. The statutes in Saskatchewan, Quebec and New Brunswick have followed closely the Ontario Act in many respects and in the other provinces, too, there has been an increasing tendency towards uniformity in recent years.



Only the main points of the legislation are covered in this analysis. The scale of benefits and the occupational diseases which are compensated are set out in tables at the end. A summary of the provisions of the Conventions and Recommendations of the International Labour Conference on workmen's compensation permits a comparison between I.L.O. standards and the provincial statutes.

In 1948, amendments were made in all Provinces except Quebec. In fatal cases, Nova Scotia now provides a lump sum payment of \$100 for a widow or invalid widower. The amount payable for funeral expenses was raised to \$150 in British Columbia and New Brunswick, and to \$175 in Alberta. Five Provinces -- Alberta, British Columbia, Manitoba, Nova Scotia and Saskatchewan -- raised the monthly benefit to a widow or invalid widower to \$50. For each dependent child, Alberta now allows \$15 instead of \$12 a month, and British Columbia \$12.50 instead of \$10. In Manitoba, instead of amounts varying with the age of the child, all children under 16 are to receive \$12 a month. Benefits to orphans were increased to \$20 in New Brunswick and Manitoba, and to \$25 in Saskatchewan. In Alberta, the Board is permitted to pay up to \$25 for each orphan child.

Saskatchewan has fixed \$50 as the minimum for a surviving consort, \$62 for a consort and one child, and \$70 for a consort and two or more children, but the maximum payable since 1944 to all dependants is the amount of average earnings. Benefits to dependants other than consort and child were raised in Alberta and Manitoba. A widow who re-marries in Alberta is to receive \$600 instead of \$480, and provision is made for resuming payments after the lapse of a year if she is again widowed or in need.

As regards non-fatal cases, the minimum compensation in New Brunswick for temporary total disability was raised from \$8 to \$12.50 per week or average earnings. In Alberta, for permanent total disability the minimum weekly benefit is now \$15 instead of \$12.50, or, as before, average earnings, if less. Nova Scotia established a minimum of \$12.50 per week, instead of \$12.50 or average earnings, for permanent total cases, and for permanent partial disability determined by the Board to be 25 per cent or more a proportionate amount. The Saskatchewan Board is directed to pay compensation for permanent partial disability on the basis of estimated impairment of earning capacity unless it deems it more equitable to make a weekly payment equal to 75 per cent of the difference in earnings before and after the injury.

Other important changes include the reduction of the "waiting period" in Alberta and New Brunswick, the former from 14 to six days and the latter from seven to four days.

The maximum amount of annual earnings on which compensation may be based was raised from \$2,000 to \$2,500 in Alberta, Manitoba and New Brunswick and from \$2,500 to \$3,000 in Saskatchewan.

The scope of the British Columbia Act was extended to apply to industries and occupations not previously covered.



### Individual Liability

An Alberta Act of 1908 and a Saskatchewan statute of 1911, under which the employer was personally liable and might insure his risk in a private insurance company, were superseded with respect to most industrial workers by statutes providing for collective liability but the earlier laws remained in effect with respect to certain classes of workers. The Alberta statute of 1918 did not apply to any railway workers but in 1919 was extended to all but men engaged in train and engine service. An amendment of 1928 made the Act applicable to these workmen if within 60 days their unions had not voted to remain under the 1908 Act. After a vote, only the trainmen and conductors remained under the earlier Act until 1941 and 1942, respectively, when they were brought under the collective liability system at their own request.

In Saskatchewan, the Workmen's Compensation (Accident Fund) Act does not apply to men in train service but members of the unions in which these workers are organized may be brought within its scope by regulation if a majority of the members indicate by ballot their desire to that effect. The members of the Brotherhood of Locomotive Firemen and Enginemen came under this Act on April 1, 1948.

In this analysis the expression "Workmen's Compensation Act" when used with respect to either Alberta or Saskatchewan refers only to the later collective liability statute.

In Nova Scotia, Part III of the Act provides that compensation for accidents to persons employed in fishing or dredging shall be paid by the employer, who is required to insure to the extent of his liability with an insurance company. Compensation in these industries does not include medical aid or burial expenses but in other respects is on the same scale as in other industries. Payment, however, is enforced by an action in the courts and the Workmen's Compensation Board is not concerned with it. The employer is not liable where the workman or dependants are entitled to compensation under the War Measures Act or Regulations.

In Ontario and Quebec, public authorities and certain corporations such as railway, shipping, telephone and telegraph companies, are, themselves, liable to pay compensation but the amount and all other questions are determined by the Workmen's Compensation Board as in the case of accidents for which compensation is paid from the Accident Fund. Such corporations contribute their proportion of the cost of administering the Act as do also the Dominion and Provincial Governments. The individual liability of these public bodies and corporations is to be sharply distinguished from that of the railway companies under the earlier statutes in Alberta and Saskatchewan and from that provided for in Part II of the Act of certain provinces.

In British Columbia, Manitoba, New Brunswick and Ontario, the Workmen's Compensation Act is divided into two Parts. In Nova Scotia, as indicated above, there are three Parts. Part II of these five statutes applies to industries to which Part I, providing for a provincial



system of collective liability, does not apply. It is stipulated in Part II that a worker in an industry which is not within the scope of Part I of the Act, that is, not within the system of collective liability or of personal liability in the case of certain large employers in Ontario as administered by the Workmen's Compensation Board, has right of action against his employer for injury received in an accident caused by any defect in the machinery or plant of the employer or caused by his negligence or that of any persons employed by him. The fact that the worker continued in the employment with the knowledge of any defect or negligence is not a bar to the recovery of damages. Negligence on the workman's part may be a factor in determining the amount of damages. Thus, the workers in industries outside the workmen's compensation scheme, under which all accidents occurring to workmen within the scope of the scheme and arising in the course of employment are compensated without recourse to the law courts, are protected in some measure by the adoption of these principles which distinguish employer's liability from workmen's compensation and from the common law.

In the Yukon Territory, an Ordinance of 1917 applies to undertakings employing five or more workmen and to injuries causing death, or disability for 3 days or longer. An amendment of 1939 provides for compensation also for silicosis, infected blisters and poisoning from lead, arsenic and mercury. Disputed claims are settled by the Territorial Court. Compensation is \$2500 in case of death, \$3000 for permanent total disablement and fixed sums for other injuries.

The Northwest Territories Workmen's Compensation Ordinance abrogates the defence of common employment in an action against an employer for injury or death of an employee. The commissioner of the Northwest Territories may order employers to arrange satisfactory protection for their workmen with the Workmen's Compensation Board of a Province or Territory or, if this is impossible, to obtain accident insurance in an approved company.

#### Prince Edward Island

In Prince Edward Island there is no Workmen's Compensation Act applying to all industrial workers. In 1926, the Provincial Legislature enacted a Railway Employees' Compensation Act but as railway workers in Prince Edward Island are employed on Dominion Government railways, the operation of the statute was declared to depend on the consent of the Parliament of Canada. In 1927, the Dominion Parliament amended the Government Employees' Compensation Act to make Dominion Government employees in Prince Edward Island eligible for compensation at the same rate and in the same manner as similar workers employed in New Brunswick. The Prince Edward Island statute has, therefore, remained inoperative.

#### Dominion Government Employees

The Dominion Government Employees' Compensation Act, 1947, which repealed an Act passed in 1918 provides that Dominion Government employees or their dependants shall be paid the same compensation as persons employed by private employers would receive under the Act of the



province in which the accident occurs. The amount of compensation is determined by the provincial Board and paid by the Dominion Government. Under this statute, as amended, all Dominion Government employees are eligible for compensation for accidents arising out of their employment, whether or not persons in that class of employment would be eligible under the provincial Act concerned.

#### War Veterans

A policy adopted by the Dominion Government in 1921 to encourage the industrial employment of war veterans has been continued in force with modifications from time to time. An Order in Council of May 3, 1944, authorized the Dominion Department of Pensions and National Health to reimburse any Workmen's Compensation Board, or an employer who is individually liable, for all or part of the cost of compensating for an industrial accident any war veteran who receives a military pension for disability of between 25 and 80 per cent. In July, 1945, military pensioners who have more than 80 per cent disability were brought within the scope of this policy. This Order was revised on January 13, 1948, and provision made for administration of the scheme by the Department of Veterans' Affairs.

#### Blind Workmen

The Ontario Blind Workmen's Compensation Act, 1931, a 1943 amendment in the Quebec Workmen's Compensation Act, a 1944 Nova Scotia Act, one in Saskatchewan in 1945 and statutes in Alberta and New Brunswick in 1948 provide that where compensation for an accident to a blind workman exceeds \$50, the Workmen's Compensation Board, or the employer if he is individually liable, is to be reimbursed from the Consolidated Revenue Fund of the Province, in Ontario for the full amount of such compensation and in the other five Provinces, for the amount in excess of \$50, provided that at the time of the accident the workman was employed with the approval of an institute for the blind recognized by the Government of the Province for that purpose.

#### Workmen's Compensation Boards

Each Workmen's Compensation Act provides for the appointment by the Lieutenant-Governor in Council of an administrative body of three members, four in Quebec, to be called the Workmen's Compensation Board, or in Quebec, Commission. In Manitoba and Saskatchewan, only the chairman is required to devote his whole time to the work.

In Alberta and British Columbia, the term of the members and in Saskatchewan the term of the chairman is ten years but except in Alberta they may be reappointed. In the other provinces the members hold office during good behaviour or, in Ontario and Quebec, during pleasure. In Manitoba, the chairman, and in Nova Scotia and Ontario, all members of the Board must retire on reaching the age of 75 unless otherwise directed by the Lieutenant-Governor in Council. In British Columbia, a Board member may be retired at 70. The New Brunswick statute does not refer to the tenure of office of members of the Board.



The industries within the scope of each Act except that of New Brunswick are classified by the Act according to accident hazard but the Board may add to these classes or subdivide or rearrange them and may also add to or withdraw industries from such classes. The New Brunswick statute provided that the classification should be made in the first place by the Board. All Boards have authority to fix assessment rates appropriate to each class with preferential or merit rating in favour of industries with good accident records. The Boards may collect assessments, determine the right to compensation and pay the amount due to workmen or dependants. The Provincial Accident Fund must be so maintained as to be sufficient to meet all claims as they arise. In all these matters, the Boards of Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatchewan have exclusive and final jurisdiction but Nova Scotia and New Brunswick allow appeals to the Supreme Court of the province, with permission of a judge of that Court, upon questions of law or jurisdiction.

In case of dispute as to the payment of any assessment or other sum or of failure to pay such sums, any Board may file an order for payment with the clerk of the court specified in the Act, whereupon as an order of the court, it may be enforced like any other judgment.

#### Cost of Administration

In each province the salaries of Board members and the costs of administration are borne by the Accident Fund. In British Columbia, Manitoba, Nova Scotia, Ontario and Quebec, an annual grant may be made from the Consolidated Revenue Fund to assist in defraying expenses. In New Brunswick, the Act stipulates that the salaries of Board members and other costs of administration are to be paid from the Consolidated Revenue Fund unless the Lieutenant-Governor in Council orders payment of any portion from the Accident Fund. The Saskatchewan Act authorized a grant not exceeding \$25,000 to assist in organizing the work and meeting initial expenses. In most provinces a grant was made only in the first year for organization, and in those provinces which provided at first for the payment of the salaries of the Board members from the provincial Treasury, the Acts were amended to require them to be paid from the Accident Fund. In no province is any financial assistance now given by the Government to the cost of administration of the Act, but where, as in some provinces, the Board is charged with other duties, the expenses in connection with them are paid by the province.

In proportion to the accidents to their own employees, however, the Governments of the Dominion and the Province contribute, like other employers who are individually liable, to the cost of administration.

In British Columbia, the Act stipulates that the Chairman's salary may not be less than \$6,000 or more than \$7,500 and the salaries of the other members not less than \$5,000 or more than \$6,000. In the other provinces, the remuneration of Board members is determined by the Lieutenant-Governor in Council. In addition to the salary thus provided for, the Manitoba Act enables the Lieutenant-Governor in Council to authorize the payment to a director giving part-time service of an allowance of \$15 for each meeting of the Board in excess of fifty which he attends in any year.



### Scope of Laws

The Provincial Workmen's Compensation Acts vary in scope but, in general, they all cover employment, whether by way of manual labour or otherwise, in connection with or incidental to industrial undertakings, including lumbering, mining, quarrying, fishing, manufacturing, printing, engineering and construction, plumbing, painting, decorating and renovating, transport of passengers or freight by rail or water and transport of goods by road, operation of electric power lines, telegraph and telephone systems, waterworks and other public utilities, navigation and operation of boats, tugs and dredges, of power laundries, bakeries, dairies, grain elevators, refrigeration plants or warehouses, freight or passenger elevators and of lumber, wood and coal yards, scavenging and window-cleaning, dyeing and cleaning.

Theatres and places where moving-pictures are exhibited, automobile repair shops and places for the sale of gasoline, oil, etc. are within the scope of the Act in all provinces. Shops are covered in Alberta, British Columbia, New Brunswick and Saskatchewan; hotels in Alberta, British Columbia, New Brunswick, Ontario and Saskatchewan; restaurants in Alberta, British Columbia, Ontario and Saskatchewan. Hospitals are within the scope of the British Columbia, New Brunswick, Ontario and Saskatchewan Acts; nursing homes are covered in British Columbia and Saskatchewan. Radio broadcasting stations are included in Alberta, British Columbia and New Brunswick. The operation of an office building is under the Ontario Act, and building maintenance and operation is under the British Columbia and Saskatchewan Acts. Transport by air is expressly included in Alberta, British Columbia, New Brunswick and Ontario. In Manitoba, it is included when carried on by certain subsidiaries of the Canadian Pacific Railway Company. In Ontario, workers employed in transport of passengers by automobile or trolley coach are covered by the Act if four or more are employed.

In British Columbia, effective January 1, 1947, employers in practically all industries with the exception of farming were required to protect their workmen under the Act. Among the industries and occupations now covered are wholesaling, ice-harvesting, shipping, marine salvage, trucking, hauling, transfer, messenger or delivery service, funeral undertaking, blacksmithing, the non-industrial construction of buildings having a value of \$2,500 or more, and the operation of such places as golf courses, parks, horse-race courses, ice and roller-rinks, bowling-alleys and billiard-parlours, dance-halls, steam baths and beer-parlours.

There are other variations with respect to miscellaneous industries or occupations. The scope of the Acts is affected, too, through the power given in all provinces but Alberta to exclude small establishments. Some undertakings have been excluded unless more than a specified number are employed, e.g. power laundries and restaurants in Ontario are included only when six or more workers are employed, and repair shops only when at least four are employed. The Nova Scotia Board excludes all undertakings employing less than five persons.



Whenever a municipal corporation or school board carries on a business which would be within the Act if conducted by a private employer, all the Acts, except that of Ontario, provide for its inclusion. Ontario protects all persons employed by municipal corporations or school boards except those employed by rural school boards. Municipal police and fire departments are protected in Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, and they may be brought within Part I of the New Brunswick or Nova Scotia statutes. In British Columbia, in 1946 all employees of municipal boards or corporations were brought within the Act.

Persons employed by the provincial Government in industries covered by the Act are declared within the scope of the Acts in British Columbia, Manitoba and Quebec. In New Brunswick and Nova Scotia, it is provided that such employees may be brought within the Act and this has been done. In Alberta, Ontario and Saskatchewan, all provincial Government employees are protected.

In every province, certain classes of workers are declared not to be within the scope of the collective liability system or of personal liability as provided for in Ontario and Quebec. Power is given to the Boards, however, to include industries or workmen not within its scope in the first instance on certain conditions. In all provinces, an industry may be brought under the Act by the Board on application of the employer. Workmen, otherwise excluded, may be declared by the Board to be within the statute in British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan if the employer applies for such action. In British Columbia, industries may be admitted by the Board on application of the workmen. In Alberta, any establishment or industry may be so admitted under certain conditions as to particular classes of workers as indicated below. Of its own motion, the Board may bring industries within the Act in Alberta, British Columbia (on such terms and conditions as it deems proper), Manitoba, Nova Scotia, Ontario and Quebec. In New Brunswick and Saskatchewan, this may be done by the Lieutenant-Governor in Council on recommendation of the Board.

On the other hand, the Board in every province but British Columbia has power to exclude any industry from the Act or, in the case of Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan, from Part I. In Ontario, Quebec and Saskatchewan, such exclusion must be approved by the Lieutenant-Governor in Council, although in Ontario, the Board may exclude any particular trade or occupation from an industry in Part I. As indicated above, undertakings in which not more than a stated number of workmen are usually employed may be excluded by order of the Board in all the provinces except Alberta. In New Brunswick and Nova Scotia, such undertakings may be readmitted by the Board while in Manitoba and in Ontario, if an employer or workman in an undertaking so excluded notifies the Board that he wishes to be included, the undertaking must be admitted. In Quebec, only by notification by the employer is the Board required to include the undertaking in the collective liability scheme. In Saskatchewan, application by employer or workman in these cases must be approved



by the Board. Regulations made under this authority relate to different industries but the Manitoba Board has not exercised its power to exclude small industries while on the other hand in Nova Scotia all industries employing less than five workmen have been placed outside the Act.

#### Farm Labourers and Domestic Servants

Certain classes of workers, although they are expressly excluded by some of the Acts may, on certain conditions, be admitted. Among these are farm labourers, domestic servants, clerical and casual workers and outworkers.

In Manitoba, New Brunswick, Nova Scotia and Saskatchewan, the Act is expressly declared not to apply to farm labourers or to domestic servants, while in Ontario and Quebec, the Act excludes the "industry of farming" and domestic service.

In Manitoba, New Brunswick, Nova Scotia and Saskatchewan, either of these classes, and in Ontario the farming industry, may be admitted to Part I on the employer's application. In New Brunswick and Saskatchewan, they may be brought within Part I by the Lieutenant-Governor in Council on the Board's recommendation. In none of these provinces have these classes been brought within the Act.

The Alberta Act applies only to specified industries and domestic service is not mentioned. As to farm workers, the statute provides that farming or ranching may be included by the Board on the application of the employer or of a majority of the employees with the employer's consent. About half a dozen persons carrying on farm operations, together with some other undertaking, have had their employees brought within the Act.

The British Columbia Act is declared not to apply to domestic servants. Farming is not among the industries specified in the statute but under the Board's general power to declare industries or undertakings within the Act on the application of either employer or workmen, farm labourers may be brought within it.

Hence, in all provinces, except Alberta to a limited extent, farm labourers and domestic servants, or their dependants, have recourse only to an action at common law for damages for accidents arising out of employment.

#### Clerical and Casual Workers and Outworkers

Clerical workers employed in industries which are within the Act are excluded from Part I of the Manitoba Act unless they are exposed to the hazards of the industry; in the other provinces, they are eligible for compensation.



Casual workers, employed otherwise than for the purpose of the employer's business, and outworkers or persons to whom work is given to be done at home, are outside the scope of Part I of the Acts in all provinces except Alberta, where they are excluded from the Act. In British Columbia, New Brunswick, Nova Scotia and Saskatchewan these two classes may be brought within the scope of the collective liability system under the conditions outlined above. In Alberta, casual workers may be brought under the Act on application of the employer or of the majority of the workmen if the employer consents, but outworkers are declared outside the Act.

### Seamen

The Merchant Seamen Compensation Act, 1946, applies to seamen on ships registered in Canada or chartered by demise to a resident of Canada or to one whose principal place of business is in Canada provided that the ship is engaged in trading on a "foreign" voyage or on a "home-trade" voyage. The Act may be applied by the Governor in Council to seamen hired in Canada and employed on a ship registered out of Canada but operated by a resident of Canada or a person having his principal place of business in Canada.

Benefits under the Dominion Act include, in a fatal case, \$45 monthly to a widow, with \$10 for each child under 18 years, or \$20 for each orphan child, together with a maximum of \$125 for burial expenses if they are not borne by the employer in accordance with the Canada Shipping Act, and not more than \$125 for transportation and other expenses incurred in transferring the body to the place of interment. Monthly benefits in such cases may not exceed two-thirds of the seaman's average earnings. In case of total disablement, the seaman is entitled to two-thirds of his average earnings and for partial disablement, two-thirds of the difference between his average earnings before and after the accident.

Where benefits are based on average earnings, not more than \$2500 earnings may be taken into account. Medical aid and compensation are payable from the date of disability if the injury disables the seaman for seven days or more.

Seamen are within the scope of the British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Quebec Acts. Thus, the provisions concerning accidents occurring outside the province are of special interest in this connection (p. 15).

During the period for which duty is payable to the Sick Mariners' Fund under the Canada Shipping Act, and seamen are, therefore, eligible for medical aid under specified conditions, the British Columbia, New Brunswick and Nova Scotia Acts stipulate that medical aid is not payable under their provisions. In British Columbia, however, in 1946 seamen were made eligible under the Workmen's Compensation Act for any additional medical aid not furnished under the Canada Shipping Act. (p. 14).



### Risks Covered

Where in any employment within the scope of the provincial workmen's compensation system "personal injury by accident arising out of and in the course of the employment is caused to a workman", compensation is to be paid, including cash payments, medical and surgical aid and hospital and skilled nursing services. But no compensation is payable where the injury

is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement.

This wording of the Ontario Act is reproduced in the statute of Quebec and, with some slight variation, in Alberta. In British Columbia, Manitoba, Nova Scotia and Saskatchewan, the law is similar but the exception in favour of a workman whose misconduct caused the injury is limited to cases where the resulting disablement is permanent. The New Brunswick Act varies from that of Ontario in stipulating that no compensation shall be paid if the injury was, in the opinion of the Board, intentionally caused by the workman or was wholly or principally due to his intoxication or serious or wilful misconduct and did not result in the workman's death.

In all the provinces but New Brunswick the word "accident" is defined to include "a wilful and an intentional act, not being the act of the workman, and a fortuitous event occasioned by a physical or natural cause". In Nova Scotia, compensation is payable for injury by lightning, and in Nova Scotia and Saskatchewan for frostbite resulting from the workman's employment. A special clause in the Alberta Act provides that where a workman is found dead in a place where his employment might cause him to be, it shall be presumed that his death was the result of an accident arising out of his employment unless the evidence is sufficient to rebut the presumption. A similar provision in the Nova Scotia Act applies only to a workman found dead in the underground workings of a coal mine.

### Occupational Diseases

In addition to accidents, certain occupational diseases give a workman right to compensation in all the provinces, "if the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement whether under one or more employments". In Ontario since 1947 any disease peculiar to an industrial process is to be compensated. In all provinces but Alberta, it is stipulated that compensation shall not be paid if at the time of entering into the employment, the workman had wilfully and falsely represented himself as not having previously suffered from the disease. Except in New Brunswick and Nova Scotia the workman is ineligible for compensation only if such false representation has been made in writing.



The diseases for which compensation is payable are set out in a schedule to each Act, except in New Brunswick, but the Board in every province is given authority to add to it and in all cases other diseases have been added to the original list. In New Brunswick, the Board was empowered to determine by regulation all the diseases to be compensated. Appended to this statement is a table showing the occupational diseases which are compensated under the provincial Acts.

In New Brunswick, the Board may require a workman in any employment to have a medical examination in order to determine whether he has an occupational disease, and if he refuses or fails to do so, the employer may not continue to employ him.

In Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatchewan, silicosis is compensated under certain conditions, if the workman has been employed in a specified industry where he was exposed to silica dust. In Nova Scotia, it is compensated if it occurs in any industry in which silica dust may be inhaled.

#### Waiting Period

Under each Act, a fixed period must elapse before compensation becomes payable. This "waiting period" varies from three to seven days, and in all provinces compensation is paid for the waiting period if disability continues beyond it. Under all the Acts medical aid is given from the date of the accident.

In Nova Scotia, Ontario and Quebec, compensation is payable only if the disability continues for seven days or more, and in New Brunswick for four days, in which case compensation is payable from the date of the disability.

In Alberta, British Columbia, Manitoba and Saskatchewan, no compensation is payable for a disability of three days or less but if the disability lasts for more than three days in Saskatchewan, six days in Alberta and British Columbia or for more than fourteen days in Manitoba, compensation is payable from the date of the disability.

#### Medical Aid

In addition to cash benefits, the cost of medical aid for injured workmen is borne by the Accident Fund for as long as needed under all the provincial Acts. Alberta ceased to require any contribution from the workpeople to the cost of medical aid at the end of 1943, and British Columbia in 1946. In Quebec, employers who are individually liable for compensation must furnish satisfactory medical aid or they may be ordered to pay for such aid as is procured by the workmen or the Board; in Ontario, the amount must now be paid by such employers through the Board.

In all provinces, medical aid includes medical, surgical, nursing and hospital services. In Ontario, it includes also treatment by persons registered under the Drugless Practitioners Act and



in Alberta and Saskatchewan the term includes treatment by any person licensed under provincial law to practise the healing arts. In Alberta, British Columbia and New Brunswick, transport of an injured workman to his home or to a hospital or physician is paid from the Accident Fund. In Alberta, Manitoba, Nova Scotia, Ontario, Quebec and Saskatchewan, the cost of such transport must be borne directly by the employer. In Nova Scotia, if an employer fails to provide a conveyance he is liable to pay to the Board double the cost of transporting the workman.

The Boards of all provinces provide crutches, artificial limbs and other apparatus for injured workmen. In Manitoba, Nova Scotia, New Brunswick, Ontario and Quebec, workmen are entitled to have such apparatus kept in repair as the Board deems necessary, and in Alberta, British Columbia and Saskatchewan for as long as disability lasts. Alberta, British Columbia, Manitoba and Quebec provide medicines and in other provinces the cost of these may be included in the term "medical aid". In Alberta, British Columbia, Manitoba and Saskatchewan, the Board may replace and repair dentures, and in Alberta, British Columbia, Manitoba and Nova Scotia, may replace and repair eye-glasses broken by an accident arising out of employment. In New Brunswick, Nova Scotia, Ontario and Quebec, express provision is made for dental treatment, and in Ontario, in permanent total disability cases, for any other treatment, services or attendance necessary as a result of the injury.

In Alberta and British Columbia, the Board is authorized to make a per diem subsistence allowance not exceeding \$2.50 in Alberta and \$3.50 in British Columbia from the Accident Fund to a workman under treatment at a place other than that in which he resides.

As regards the choice of a physician, the statutes in New Brunswick, Nova Scotia, Ontario and Saskatchewan merely stipulate that a workman must, if required by his employer, submit to a medical examination by a physician chosen and paid by his employer but only in accordance with the regulations of the Board. The implication is that in the first instance he may choose his own doctor. In Quebec, the present Act expressly states that a workman may select his physician. In Alberta, British Columbia and Manitoba, the Board is authorized to permit the workman to be treated by his own physician and this is the usual practice provided one reasonably near is chosen.

If so required by the Board, a workman in any province must submit to an examination by a medical referee chosen by the Board or to such other examination as the Board requires. In Alberta, in cases of dispute, the Board, after consulting the workman's physician, must nominate two recognized specialists in the class of injury or ailment for which compensation is claimed and the workman may select one of them to conduct the examination. If he fails to make a choice the Board may make it.



In all provinces the fees for medical aid are fixed by the Board.

#### Employers' Schemes for Medical Aid.

Employers' schemes for medical aid to their workmen may, under all the statutes, be continued or put into effect if, after considering the wishes of both workmen and employer, the Board deems them to be at least as favourable to the workmen as the provisions of the Act. Such a scheme, approved by the Board and under its supervision, may replace the arrangement for medical aid in the Act. In Manitoba, New Brunswick and Ontario no private schemes have been approved by the Board. The Alberta, New Brunswick, Nova Scotia, Quebec and Saskatchewan Acts stipulate that the employer is entitled to reimbursement out of the Accident Fund or to a reduction in his assessment rate where such a scheme is in force. In Manitoba, the Act states that employers' schemes for medical aid may be approved subject to such conditions as the Board may impose. In all provinces except Alberta and British Columbia, contributions by workmen to a private scheme for medical aid in cases under the Workmen's Compensation Act are expressly forbidden by the Act. In Nova Scotia, however, schemes in the coal industry under which the miners pay the cost through a long-established arrangement with the local doctors have been permitted to continue in consideration of the employers' contributions to miners' relief societies which constitute virtually an insurance plan providing benefits in sickness and for dependants in case of death. In some districts these arrangements for medical treatment were altered so as not to apply to compensation cases.

#### Seamen

The Dominion Merchant Seamen Compensation Act, 1946, which applies to seamen who are not within the scope of any provincial Workmen's Compensation Act, provides for free medical aid from the date of disability if the injury disables for seven days or more. The Act stipulates, however, that a seaman entitled to medical aid under the Canada Shipping Act is not entitled to medical aid under the 1946 statute for the same period or to the same extent.

In British Columbia, New Brunswick and Nova Scotia, the Workmen's Compensation Act stipulates that seamen on vessels on which duty is payable for the purpose of the Sick Mariners' Fund under Part V of the Canada Shipping Act shall not, during the period for which such duty is payable, receive medical aid under the Workmen's Compensation Act. In British Columbia, however, seamen are eligible under the Workmen's Compensation Act for any additional medical aid which is not furnished under the Canada Shipping Act. Under the Canada Shipping Act, all ships arriving at any port in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario or Quebec are required to pay a duty for the Sick Mariners' Fund but ships engaged in the coastal trade and fishing vessels are exempt.



### First Aid

In all provinces, employers in industries in which it is deemed proper may be required by the Board to maintain such first-aid appliances and service as the Board may direct. In British Columbia, when the employer fails to comply with this provision the Board may install first-aid appliances and charge the cost of them to the employer. Regulations have been issued in all the provinces setting out the minimum first-aid service required to be maintained according to the number of employees.

### Rehabilitation

To aid in getting men back to work and in lessening any handicap, a Board may adopt any means considered expedient and pay the cost from the Accident Fund. Except in Alberta and Saskatchewan the maximum amount that may be spent for this purpose in a year is fixed in the statute: \$15,000 in New Brunswick; \$20,000 in Nova Scotia; \$75,000 in British Columbia; and \$100,000 in Ontario and Quebec. In Manitoba, the cost of vocational training for any workman may be paid from the reserve set aside for his compensation. In Alberta, provision was made in 1948 for the setting up of a reserve fund for the payment of expenses incurred by the Board in re-training and rehabilitation.

### Accidents Occurring Outside the Province

In each province, the Act makes some provision for compensation to workmen who are hired by an employer in the province and who are injured in accidents occurring outside its boundaries.

The determining factors are usually the employer's place of business and the residence and usual place of employment of the workman. Although the Acts vary in wording, in general they ensure protection to such workmen and guard against any overlapping.

In Alberta, British Columbia, Ontario and Quebec, compensation is payable, if the place or chief place of business of the employer and the residence and usual place of employment of the workman are in the Province, and, in Nova Scotia it is payable, if the workman's usual place of employment is in the Province, and employment without the province has lasted less than six months, or in the case of Alberta, twelve months or longer if the Board permits. In Alberta, Nova Scotia and Quebec, however, compensation is only payable in such cases if the law of the place where the accident happened grants no compensation. In Manitoba and Ontario, a workman is eligible for compensation for an accident which occurs while he is temporarily outside the province for some purpose connected with his employment provided that his employer has his place of business within its boundaries and the workman's employment usually causes him to be within the province, and if, in Manitoba, he is a resident of the province or, in Ontario, even if his residence is outside the province.



In Alberta, New Brunswick, Nova Scotia and Saskatchewan, when a workman, who is a resident of the province, is engaged in work which is performed partly within and partly without the province, the work is considered as done in the province and compensation is payable accordingly. In British Columbia, Manitoba and Ontario, a similar provision relates only to employment on a steamboat, ship or vessel or on a railway but in British Columbia also includes transport by aeroplane, truck, bus or other vehicle. In Quebec, a like provision applies to employment in transport by land or water and in the latter case applies also to a workman hired in the province. In Ontario and Quebec, the provision applies to an accident on a vessel which is either registered in a Canadian port or whose owner or charterer has his home or principal place of business in the province. The Nova Scotia statute stipulates as regards accidents outside the province on a ship registered in Nova Scotia or operated by an employer residing or having his place of business in the province and while the ship is limited to making voyages between Nova Scotia and New Brunswick, Prince Edward Island or Newfoundland, that the employer must apply to have the industry admitted within the Act and must pay the required assessment. Failure to do so makes him personally liable for compensation.

In Nova Scotia, an industry carried on outside the province may be declared by the Board, on the application of the employer, to be within the scope of Part I of the Act and compensation is payable to a workman employed in such an industry.

In British Columbia, New Brunswick, Nova Scotia, Ontario Quebec and Saskatchewan, if an employer fails to include the workmen whose work requires them to go outside the province in the report of his payroll to the Board and an accident occurs to any workman outside the province for which he is eligible for compensation, the employer is individually liable to pay such compensation. The British Columbia and Nova Scotia Boards, however, may exercise their discretion on this point according to the circumstances.

In Ontario, when the employer's place of business is not in the province, provision is made for compensation for accidents occurring outside the province under certain circumstances. If compensation is payable under the law of the place where the accident happened, compensation is not payable in Ontario whether the workman is a resident of the province or not, unless his place of employment is in the province and he was, at the time of the accident, out of the province merely for some casual purpose incidental to his employment.

In Alberta, British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan, if an accident happening elsewhere than within the province entitles the workman to compensation under the law of another province or country in which the accident occurred as well as under the law of the province, the Act requires him to choose under which law he will claim compensation and to give notice accordingly.



Alberta, British Columbia, Manitoba and Saskatchewan provide for interprovincial agreements to facilitate the handling of cases in which workmen are employed outside the Province. The Alberta Board may enter into an agreement with the Board of any other province to provide compensation for injuries to workmen who are employed under such conditions that part of their work is performed in Alberta and part in another province. The British Columbia Board may make arrangements with the Board of any other province to avoid duplication of assessments where workmen are protected by the laws of two or more provinces and may repay any other Board for any payment of compensation made under such an arrangement. In Manitoba, where a workman's employment requires him to be regularly outside the province, the Board may arrange with the employer and the Board of the other province the premium to be paid to each Board.

In Saskatchewan, the Act enables the Board, with the approval of the Lieutenant-Governor in Council, to arrange with the Boards of adjoining provinces with respect to compensation for injuries to workmen whose employment is at one time or season in one province and at another time or season in another, and also with respect to compensation for industrial diseases incurred by workmen whose employment extends across the interprovincial boundary. The Manitoba Act has a similar provision relating to industrial diseases.

#### Non-resident Workmen and Dependants<sup>\*</sup>

The question of compensation to workmen or their dependants who reside outside the province is dealt with in all the Acts. The chief distinction between the statutes is that in most of the provinces such compensation is granted only on condition that similar benefits are provided for by the law of the country in which the beneficiaries reside. The higher cost of living in Canada compared with trans-Atlantic countries has also been taken into consideration and it is frequently stipulated that the amount of compensation may be adjusted on this basis.

The British Columbia law stipulates that where compensation is payable to persons residing outside of Canada, the Board may award a smaller sum if, in its opinion, dependants can be maintained on such smaller sum in a like degree of comfort as dependants of the same class in Canada. The New Brunswick Act contains a similar provision with respect to dependent aliens residing outside of Canada.

In Quebec, dependants not residing in Canada may be awarded such sum in lieu of compensation as the Workmen's Compensation Commission deems proper.

<sup>\*</sup> The question of payment to dependants resident in enemy countries is not dealt with here.



A similar provision to that of Quebec is found in the Ontario and Saskatchewan Acts. The latter statutes, however, while giving to the Board such discretionary power, stipulate, generally, that a dependant who does not live in Canada is not entitled to compensation, unless by the law of the place or country in which he resides, the dependant of a workman to whom an accident happens in that country, if resident in Canada, would be entitled to compensation.

In Manitoba, New Brunswick and Nova Scotia, the section dealing with non-resident dependants is like that in Ontario and Saskatchewan except that in the three first-named provinces, the provision relates to dependants who do not live in the province as well as to non-residents of Canada, and in New Brunswick and Nova Scotia, the clause is permissive only. The Board is given power to order compensation to be paid in such cases. In New Brunswick, the statute requires an order in council to set out that provision is made by other provinces and countries for compensation in respect to workmen of those countries or provinces and benefits are payable to dependants resident in New Brunswick. Such an order in council was approved in February, 1919.

In the three provinces, Manitoba, Ontario and Saskatchewan, compensation awarded to non-resident dependants may not be greater than the amount of compensation that would be payable under the law of the other country if the dependant concerned under that law resided in one of these provinces and in Nova Scotia the Board may reduce the compensation in such a case to that payable under the law of the country concerned.

#### Security for Payment of Compensation

All the provincial statutes provide that compensation shall be paid for accidents within their scope and the province is responsible for the solvency of the Accident Fund.

Default on the part of the employer in making the required returns to the Board or in paying his assessment does not affect the payment of compensation for an accident occurring during the period of default. In such case, the employer is liable, in addition to a penalty, to pay, in Alberta not more than \$300 and in Manitoba not more than \$500, or, in either of these provinces one-half and in the other provinces the full amount of the capitalized value of the compensation as the Board determines.

In every province where default is made in the payment of an assessment, judgment may be entered on a certificate filed in court by the Board. In Alberta, British Columbia, Manitoba and New Brunswick the Board has right of action against the employer and in Alberta, Ontario and Saskatchewan if an assessment remains unpaid for 30 days the amount may be collected for the Board by the municipality in the same manner as taxes.



In Quebec, assessments have priority over any lien and in British Columbia and Alberta, over any lien except one for wages. In the other provinces where an employer would be entitled to a lien the owner of the property is liable for the assessment or to a penalty if he fails to see that the employer pays it.

All the Acts provide that in the case of the death of the employer or of an assignment or winding up of a company the amount of any assessment or compensation for which the employer was liable shall be included among the debts, such as legal costs, taxes or wages, which, under the provincial statutes governing the distribution of estates in such cases, have priority over other claims against the property of the employer. The Dominion Bankruptcy Act stipulates that, subject to the provincial laws concerning (1) taxes or rates on the property of the debtor and (2) as to rent, and after costs and fees of bankruptcy proceedings are provided for, all wages earned during the preceding three months and any indebtedness under a provincial Workmen's Compensation Act shall have first claim on the property.

#### Accident Prevention

The Board in each province, except Manitoba, and any person appointed by the Board have authority to inspect the premises of any employer within the scope of the Act to ascertain whether proper precautions are being taken to prevent accidents and whether the safety appliances or safeguards required by law are being used. In Manitoba the provincial Department of Labour is responsible for accident prevention work.

In Alberta, British Columbia and Saskatchewan, the Board may determine the measures to be adopted or the safety devices to be installed for the prevention of accidents and diseases, making general or special rules for that purpose. Before adopting such rules, the British Columbia Board must arrange for them to be considered at a public hearing of which ten days' notice must be given. In British Columbia and Saskatchewan, the Board may maintain museums for the exhibition of safety devices, publish and distribute bulletins on accident prevention, arrange for lectures on the causes and prevention of industrial accidents and diseases and appoint advisory committees on which employers and workmen are represented to assist the Board in establishing standards of safety and to recommend rules for that purpose. Safety regulations have been made by the Boards of both Alberta and British Columbia. In Alberta and British Columbia, an accident prevention committee must be organized in every plant employing, in Alberta, 10 or more workmen, or in British Columbia 25 or more.

In New Brunswick and Nova Scotia, Ontario and Quebec, associations of employers, and in Saskatchewan associations of employers and workmen, in any of the classes into which they are divided for purposes of assessment may make rules for accident prevention. In New Brunswick and Nova Scotia one accident prevention association covers the province. In Ontario and Quebec, certain



classes are organized separately, construction, pulp and paper, lumbering, mining and electrical work in Ontario and pulp and paper, lumbering and public utilities in Quebec. Employers in other classes in each province are associated in one body.

If the Nova Scotia Board considers the association to be sufficiently representative of the employers affected and approves their rules, they become binding upon all employers in the class or classes whether members of the association or not. In New Brunswick, Ontario, Quebec and Saskatchewan under like conditions, they become binding if they are approved also by the Lieutenant-Governor in Council. Where an association appoints safety inspectors, the Board in any of these provinces may pay the whole or part of their salaries out of the Accident Fund. A special grant may also be made towards the expenses of an association. Monies paid by the Board, under these provisions, are to be charged to the classes represented by the association concerned.

In Alberta and British Columbia, if the Board considers that an accident is due to the inexcusable failure of an employer to comply with the regulations or with the directions of the Board, it may levy a contribution not exceeding one-half of the amount of compensation payable. In British Columbia, the amount is not to exceed \$300 in any case. The Alberta Board may increase the assessment of an employer if it considers that precautions against accidents are not sufficient or that working conditions are not safe.

In British Columbia and Manitoba, where an industry is so circumstanced or conducted that the hazard is either greater or less than the average of the class to which the industry belongs, the Board may fix a higher or lower rate according to the hazard. In New Brunswick and Nova Scotia, the rate may be increased where the hazard is greater than the average of the class owing to the manner in which the industry is carried on.

In all provinces except British Columbia the Board is expressly authorized to adopt a system of "merit rating". Moreover, in Ontario, Quebec and Saskatchewan, if the accident record is high in any industry and if proper precautions are not taken or if the machinery, appliances, etc., are defective or inadequate, the Board may increase the employer's assessment so long as such conditions exist, or the Board may exclude the industry from the class in which it has been placed and make the employer individually liable for compensation.

Conventions and Recommendations  
of the International Labour  
Conference.

Accidents

The International Labour Conference at its 1925 Session adopted three Conventions and four Recommendations concerning workmen's compensation. The 1925 Convention (No. 18) concerning



compensation for occupational diseases was revised in 1934 (No. 42) to cover additional diseases.

The Convention (No. 17) relating to industrial accidents requires that workmen's compensation laws shall apply to all workmen, employees and apprentices employed in a public or private undertaking with the exception, where deemed desirable by the legislature, of casual workers employed otherwise than for the purposes of the employer's business, out-workers, members of the employer's family working exclusively for and residing with him, and non-manual workers whose remuneration exceeds a limit determined by national legislation.

The Convention does not apply to agriculture, which is covered by a 1921 Convention, nor to seamen or fishermen, nor to persons covered by special schemes whose terms are not less favourable than those of the Convention.

The Convention requires compensation, in fatal and permanent disability cases, to be paid periodically except where the authorities are satisfied that a lump sum will be properly used. Compensation must be payable from not later than the fifth day after the accident and additional compensation must be given where the injured person requires the constant help of another person. A workman is entitled to medical, surgical and pharmaceutical aid, and to the supply and normal renewing of artificial limbs and surgical appliances or to a money payment in place of them. Provision must be made to ensure the payment of compensation in the event of the employer or insurer becoming insolvent.

The Convention leaves each country free to determine whether compensation shall be payable directly by the employer or by an accident or sickness insurance institution.

This Convention has been ratified by 19 States. It can be ratified by Canada only if the Dominion, provincial and territorial laws comply with its standards. The most outstanding differences are in scope. The Convention includes domestic servants which are nowhere included in Canada. It applies also to industrial undertakings irrespective of the number employed, to commercial establishments, such as shops, hotels, restaurants, places of amusement, banks and offices of various kinds, to hospitals and other institutions of a commercial or of a non-profit nature.

The scope of the Canadian Acts is set out on p. 7.

#### Agriculture

Convention (No. 12), adopted at the 1921 Session of the Conference, requires all agricultural wage-earners to be included within the scope of workmen's compensation. This Convention has been ratified by 23 countries including the United Kingdom and New Zealand.



In Canada, farm workers are not compensatable except to a very small extent in Alberta. However, in several provinces agricultural workers may be brought within the scope of the Act either by regulation of the Board or by order in Council, (p. 9).

### Occupational Diseases

The 1925 Convention providing for compensation for poisoning by lead or its alloys or compounds, poisoning by mercury or its amalgams and compounds, and for anthrax infection was ratified by 31 States. The 1934 Convention has been ratified by 14 States, including the United Kingdom.

This Convention requires compensation to be paid in case of death or disability from any of the specified diseases in accordance with the general principles of the legislation providing for compensation for industrial accidents and at rates not less than those prescribed for accidental injury. In addition to the three diseases specified above, the 1934 Convention applies to silicosis, poisoning by phosphorus or arsenic or their compounds, poisoning by benzene or its homologues and their nitro and amino-derivatives or by the halogen derivatives of hydro-carbons of the aliphatic series, pathological manifestations due to radium or other radio-active substances or to X-rays, and primary epitheliomatous cancer of the skin.

Only Ontario, Quebec and Saskatchewan provide compensation for all these diseases. For the diseases compensatable in each province, (see p. 25).

A Recommendation (No. 24) of the 1925 Conference is to the effect that each State should adopt a simple procedure for revising the list of diseases for which compensation is payable. In Canada, all provinces may add to the list by regulation of the Workmen's Compensation Board.

### Minimum Scale of Compensation

The Recommendation (No. 22) concerning the Minimum Scale of Workmen's Compensation proposes for permanent total incapacity a periodical payment equal to two-thirds of the workmen's annual earnings and in case of temporary total incapacity a daily or weekly payment equivalent to two-thirds of the workmen's basic earnings as calculated for purposes of compensation. In case of permanent or temporary partial incapacity, the benefit proposed is a proportion of the periodical payment due in the event of permanent or temporary total incapacity, respectively calculated in reference to the reduction in earning power.

Where periodical payments are made, the maximum yearly total paid to all dependants should not be less than two-thirds of the annual earnings of the deceased workman. Where compensation is paid



in a lump sum, the maximum payable to all dependants should not be less than the capitalized value of periodical payments equivalent to two-thirds of the annual earnings.

The Recommendation further proposes that provision be made for the vocational re-education of injured workmen and institutions which undertake such re-education should be encouraged by the Government.

Those entitled to be regarded as dependants under the Recommendation include at least the consort, children under 18 and invalid children over that age, dependent grandchildren and brothers and sisters within the same age-limits, and dependent parents and grandparents.

In the Canadian provinces compensation is payable on at least as high a scale except that in all provinces a limit is placed on the maximum earnings which may be taken into account when calculating compensation. Further, compensation is normally paid only in respect of children under 16 except in Alberta, New Brunswick and Quebec where the normal age is 18. In New Brunswick, however, payments cease if the child does not attend school up to 18 years. Exceptions are made for invalid children in all provinces and in British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan for children continuing their education up to 18 years of age.

#### Equality of Treatment for National and Foreign Workers

The Convention (No. 19) concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents has been ratified by 37 countries, including the United Kingdom.

This Convention requires each State which ratifies it to grant to the nationals of any other State which ratifies the Convention the same treatment in regard to compensation for accidents happening in its territory as it accords to its own nationals. This treatment is to be given to foreign workers and their dependants without any conditions as to residence. Special arrangements between the States concerned are to regulate, if necessary, the payments to be made outside the territory of any Member State. Agreements may be made between Member States providing that compensation for accidents happening to workers who are temporarily or intermittently employed in the territory of one Member, on behalf of an undertaking situated in the territory of another Member, shall be governed by the laws of the latter Member State.

The Canadian provisions relating to Equality of Treatment are stated on page 17.



The Recommendation (No. 25) on the same subject is to the effect that measures should be taken to facilitate the payment of compensation to foreign workers, and that in case of dispute concerning the non-payment or reduction of compensation due to a person residing elsewhere than in the territory where his claim originated, facilities should be afforded for taking legal proceedings in such territory without requiring the attendance of the person concerned.

#### Jurisdiction in Disputes

Recommendation No. 23 relates to jurisdiction in disputes concerning workmen's compensation. Since such disputes turn not only on the interpretation of laws and regulations but also on questions of an occupational character requiring a thorough knowledge of working conditions, it is recommended that every dispute relating to workmen's compensation should be dealt with by a special court or board of arbitration comprising, with or without the addition of regular judges, an equal number of employers' and workers' representatives nominated or appointed to act as adjudicators by their respective organizations or elected by bodies of employers and workmen. Where such disputes are dealt with by ordinary courts of law, the courts should be required to hear employers' and workers' representatives as experts in cases involving questions of an occupational character and, in particular, the question of degree of incapacity.



Occupational Diseases

The following table shows the diseases for which compensation is payable under the Workmen's Compensation Acts, by provinces but in Ontario since 1947 any disease peculiar to an industrial process or occupation is to be compensated:

Anthrax	)	
Arsenic poisoning or its sequelae	)	
Lead poisoning or its sequelae	)	All provinces
Mercury poisoning or its sequelae	)	
Phosphorous poisoning or its sequelae	)	
Ammonia poisoning or its sequelae	)	New Brunswick, Saskatchewan
Ankylostomiasis	)	British Columbia, Manitoba,
	)	Nova Scotia, Ontario,
	)	Saskatchewan
Asbestosis	)	Quebec
Benzene (benzol) poisoning and	)	Alberta, British Columbia,
poisoning by its homologues, nitro and	)	Manitoba (munition making),
amino-derivatives, anilin and others	)	Ontario, Quebec, Saskatchewan
Brass, zinc or nickel poisoning	)	Ontario, Quebec,
(see also under zinc)	)	Saskatchewan
Bursitis (see also Cellulitis)	)	Ontario, Quebec, Saskatchewan
- acute, elbow	)	British Columbia, New
	)	Brunswick, Nova Scotia
- prepatellar	)	New Brunswick, British
	)	Columbia
Cadmium poisoning	)	Ontario, Quebec, Saskatchewan
Cancer, epitheliomatous, or ulceration	)	
of the skin or cornea due to tar,	)	Nova Scotia, Ontario,
pitch, bitumen, mineral oil or	)	Saskatchewan
paraffin, or any compound, product	)	
or residue of any such substance	)	
Carbon bisulphide poisoning or its	)	Ontario, New Brunswick
sequelae	)	Saskatchewan
Carbon dioxide poisoning or its	)	British Columbia, Ontario,
sequelae	)	New Brunswick,
	)	Saskatchewan
Carbon monoxide poisoning or its	)	British Columbia, New
sequelae	)	Brunswick, Ontario, Quebec,
	)	Saskatchewan



Carbon monoxide and carbon dioxide poisoning by coke fumes used as a heating agent in the shipbuilding or other industry	) ) ) )	British Columbia
Cellulitis, subcutaneous, hand	) )	Alberta, British Columbia, Nova Scotia
- -, - -, patella	) )	British Columbia, Nova Scotia
Chlorinated hydro-carbons (carbon tetrachloride, trichlorethylene, tetrachlorethane, trichloronaphthalene and others), poisoning by or its sequelae	) ) ) ) )	Ontario, Quebec, Saskatchewan
Chlorinated hydro-carbons, acetates or alcohols, poisoning from	) )	British Columbia
Chlorine poisoning	)	Saskatchewan
Chrome poisoning	)	Ontario, Quebec, Saskatchewan
Chromic acid, chromates, dermatitis and ulcerations in any process using	) )	British Columbia.
Compressed air illness	) ) )	British Columbia, New Brunswick, Ontario, Quebec, Saskatchewan
Conjunctivitis, bronchitis, tracheitis, pulmonary odema or gastric irritation caused by welding gases and fumes in electric and oxy-acetylene welding	) ) ) ) ) )	British Columbia
Conjunctivitis and retinitis due to electro- and oxy-acetylene welding	) ) )	Manitoba, New Brunswick, Ontario, Quebec, Saskatchewan
Cyanide, dermatitis in any process involving the use of	) )	British Columbia
Cyanide poisoning	)	Saskatchewan
Dermatitis and infection of skin or contact surfaces due to oils, cutting compounds or lubricants, dust, liquids, fumes, gases or vapours	) ) ) )	Alberta







Infected blisters from any process involving continuous friction, rubbing or vibration	) British Columbia, ) Ontario, Quebec, ) Saskatchewan
Inflammation of the synovial lining of the wrist joint and tendon sheaths of wrist or hand	) British Columbia, ) Ontario, Quebec, ) Saskatchewan (tenosynovitis of the wrist)
Magnesium, dermatitis due to metallic magnesium or its alloys	) British Columbia )
Miners' phthisis	) Saskatchewan
Nitrous fumes, poisoning by, or its sequelae	) Manitoba, (munitions making) ) Ontario, Quebec, ) Saskatchewan
Petroleum and products, respiratory, gastro-intestinal, nerve and eye disorders due to	) ) Saskatchewan
Pneumoconiosis	) Ontario, Quebec
Pneumoconiosis (deemed to be silicosis, siderosis, lithosis) in quarrying crushing or polishing stone or metal and in mining (See also silicosis)	) ) Alberta, Saskatchewan ) )
Pneumoconiosis in any industry, other than metalliferous and coal mining, in which there is considerable exposure to silica dust	) ) ) British Columbia )
Poisoning, any process involving use of a volatile solvent in assembling or repairing motor-vehicles, or in making paints, paint removers or in water-proofing fabrics, printing, dry cleaning, welding or gasoline blending	) ) ) ) British Columbia (also work on airplanes), Saskatchewan )
Poisoning by cedar, hemlock, spruce or alder	) ) British Columbia
Printing, respiratory disorders due to materials in non-offset sprays	) ) Ontario
Silicosis	) Nova Scotia
Silicosis in mining	) Ontario



Silicosis in mining and in iron, steel and metal foundries	) )	Manitoba
Silicosis in mining, in sharpening or grinding tools or any other operation in mines or in ore or rock-crushing operations	) ) ) )	British Columbia, Quebec
Silicosis in making pottery	)	Quebec
Stone workers' or grinders' phthisis	)	Ontario, Saskatchewan
Sulphur poisoning or its sequelae	) )	British Columbia, New Brunswick
Sulphur, inflammation or ulceration of the skin or mucous membrane (mining)	) )	British Columbia
Sulphuric, hydrochloric or hydrofluoric acid, poisoning by	) )	Saskatchewan
Tooth-erosion due to exposure to acid mist in electrolytic zinc refining	) ) )	British Columbia
Tuberculosis, pulmonary, in hospitals or sanatoria under the Act, and in venereal disease control clinics operated by the Province	) ) )	British Columbia
Vascular disturbances in the upper extremities due to continuous vibration from pneumatic or power drills, riveting machines or hammers	) ) ) ) )	British Columbia (in construction, mining or quarrying), Saskatchewan
Wood alcohol poisoning	)	Saskatchewan
X-rays, radium or other radio-active substances, any disease due to	) ) ) )	Ontario, Quebec (ulceration or malignant disease), Saskatchewan
X-rays, cutaneous, circulatory, or blood-cell lesions or endocrine change, in an X-ray laboratory in industry or in hospitals due to exposure to	) ) ) )	British Columbia
Zinc refining, ulceration of mucous membranes, due to acid fumes in	) )	British Columbia



Scale of Compensation

The table shows the benefits payable. Periodical payments may be computed for a lump sum on certain conditions. In all provinces compensation is paid in respect of a foster-mother at the same rate as to a widow with one or more children for as long as payments to the children continue.



1. MONTHLY BENEFITS TO DEPENDANTS IN CASE OF DEATH OF WORKMAN

<u>Funeral</u>	<u>Widow or</u>	<u>C H I L D R E N</u>		<u>Where only dependants</u>	<u>Maximum</u>
	<u>Invalid</u>	<u>With Parent</u>	<u>Orphans</u>	<u>are other than consort</u>	
	<u>Widower</u>			<u>&amp; child</u>	
<u>NOVA SCOTIA</u>					
\$150	\$50 plus sum of \$100	Under 16, \$10 each <sup>1</sup>	Under 16, \$20 each, Maximum \$80 <sup>1</sup>	As in N.B. Maximum to parent or parents \$30. Maximum in all \$45 <sup>2</sup>	2/3 of earnings <sup>3</sup>
<u>NEW BRUNSWICK</u>					
\$150 <sup>4</sup>	\$40 plus sum of \$100	Under 18, if attending school, \$10 each <sup>1</sup>	Under 18, if attending school, \$20 each <sup>1</sup>	Sum reasonable and in proportion to pecuniary loss <sup>2</sup>	2/3 of earnings <sup>3</sup>
<u>QUEBEC</u>					
\$175	\$45 plus sum of \$100	Under 18, \$10 each <sup>1</sup>	Under 18, \$15 each <sup>1</sup>	As in N.B.	2/3 of earnings <sup>3</sup> Min. \$55 per month to consort and one child, \$65 if more.
<u>ONTARIO</u>					
\$125 <sup>4</sup>	As in N.S.	Under 16, \$12 each <sup>1</sup>	Under 16, \$20 each <sup>1</sup>	As in N.B.	2/3 of earnings but min. of \$50 to consort, \$12 to each child or \$20 to orphan child, provided total does not exceed \$100 <sup>3</sup>
<u>MANITOBA</u>					
\$150 <sup>4</sup>	As in N.S.	As in Ontario	As in Ontario	As in N.B. Max. \$30 each. Max. in all \$60 <sup>2</sup>	2/3 of earnings <sup>3</sup> but min. \$12.50 per wk. if one child; \$15 if more.

1. In British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan payments to children may be made up to 18 years if desirable to continue education. In Alberta, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan payments to invalid children are continued so long as Board considers workman would have contributed to support. In British Columbia and Manitoba, payments are continued until recovery.
2. In all provinces compensation in these cases is continued only so long as Board considers workman would have contributed to support.
3. For maximum earnings that may be reckoned, see Table 2, Column 5.
4. For cost of transporting body from place of death to place of interment, \$125 may be paid in Ontario and New Brunswick, and in British Columbia and Manitoba, \$100.



<u>Funeral</u>	<u>Widow or invalid Widower</u>	<u>With Parent</u>	<u>Orphans</u>	<u>Where only dependants are other than consort &amp; child</u>	<u>Maximum</u>
<u>SASKATCHEWAN</u>					
\$125	As in N.S.	As in Ontario	Under 16, \$25 each <sup>1</sup>	As in N.B.	Average earn- ings but Min. \$50 to widow or invalid widower; \$62 to widow or widower and one child; \$70 if more children <sup>3</sup>
<u>ALBERTA</u>					
\$175	As in N.S.	Under 18, \$15 plus \$10 if attending school between 16 and 18 years <sup>1</sup>	Under 18, \$15 plus an amount not exceeding \$10 <sup>1</sup>	As in N.B. Max to parent or parents \$50. Max. in all \$85 <sup>2</sup>	
<u>BRITISH COLUMBIA</u>					
\$150 <sup>4</sup>	As in N.S.	Under 16, \$12.50 each <sup>1</sup>	Under 18, \$20 each; \$17.50 if able to attend school between 16 and 18 years and not attend- ing <sup>1</sup>	(a) as in N.B. Max. \$40 to parent or parents Max. in all \$55. (b) if there is widow or invalid widower or orphans max. to parent or parents \$40 <sup>2</sup>	

1. In British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan payments to children may be made up to 18 years if desirable to continue education. In Alberta, New Brunswick, Nova Scotia, Ontario Quebec and Saskatchewan payments to invalid children are continued so long as Board considers workman would have contributed to support. In British Columbia and Manitoba, payments are continued until recovery.
2. In all provinces compensation in these cases is continued only so long as Board considers workman would have contributed to support.
3. For maximum earnings that may be reckoned, see Table 2, Column 5.
4. For cost of transporting body from place of death to place of interment, \$125 may be paid in Ontario and New Brunswick, and in British Columbia and Manitoba, \$100.

2. BENEFITS IN CASE OF DISABILITY

<u>PERMANENT</u>		<u>TEMPORARY</u>		<u>MAXIMUM EARNINGS RECKONED</u>
<u>Total</u>	<u>Partial</u>	<u>Total</u>	<u>Partial</u>	
<u>NOVA SCOTIA</u>				
2/3 of earnings. Min. \$12.50 per wk.	2/3 of difference in earnings before and after accident. If disability 25% or more, min. as in permanent total disability in proportion to disability. If diminished 10% or less lump sum may be given.	2/3 of earnings for duration. Min. \$12.50 per wk. or earnings if less.	2/3 of difference in earnings before and after accident for duration. Min. as in temporary total disability in propor- tion to disability. If diminished 10% or less lump sum may be given.	\$2000 per annum.
<u>NEW BRUNSWICK</u>				
Average earnings but not in excess of 2/3 of \$2500	Amount determined by Board. Lump sum may be given.	As in N.S.	If earning capacity diminished by more than 10% 2/3 difference in earnings before and after accident for duration.	\$2500 per annum.
<u>QUEBEC</u>				
2/3 of earnings. Min. \$15 per wk. or earnings if less	2/3 of difference in earnings before and after accident. Min. as in total disabili- ty in proportion to disability. If dimin- ished 10% or less lump sum may be given	2/3 of earnings for duration. Min. \$15 per wk. or earnings if less	2/3 of difference in earnings before and after accident for duration. Min. as in total disabili- ty in proportion to disability. If diminished 10% or less lump sum may be given.	\$2500 per annum.
<u>ONTARIO</u>				
2/3 of earnings. Min. \$100 per month or earnings if less.	Based on impaired earning capacity esti- mated from nature and degree of injury. If more equitable, 2/3 of diminution of earn- ings. Min. as in total disability in propor- tion to disability. If diminished 10% or less lump sum may be given.	As in Quebec	Based on impaired earn- ing capacity estimated from nature and degree of injury. If more equitable, 2/3 of diminution of earnings for duration. Min. as in total disability in pro- portion to disability. If diminished 10% or less lump sum may be given.	\$2500 per annum.
<u>MANITOBA</u>				
As in Quebec.	As in Quebec.	As in Nova Scotia.	As in Quebec.	\$2500 per annum.



<u>PERMANENT</u>		<u>TEMPORARY</u>		<u>MAXIMUM EARNINGS RECKONED</u>
<u>Total</u>	<u>Partial</u>	<u>Total</u>	<u>Partial</u>	
<u>SASKATCHEWAN</u>				
75% of earnings. Min.\$15 per wk. or earnings if less.	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or if more equitable, 75% of difference in earnings before and after accident. Min. as in total disability in proportion to disability. If diminished 10% or less lump sum may be given.	75% of earnings for duration. Min.\$15 per wk. or earnings if less.	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration. Min. as in total disability in proportion to disability. If diminished 10% or less lump sum may be given.	\$3000 per annum.
<u>ALBERTA</u>				
As in Quebec	Based on impaired earning capacity - if diminished 10% or less lump sum may be given.	As in Quebec	Based on impaired earning capacity	\$2500 per annum.
<u>BRITISH COLUMBIA</u>				
2/3 of earnings. Min. \$12.50 per wk. or earnings if less.	2/3 of diminution of earnings or may be based on impaired earning capacity. If earnings not substantially less lump sum may be given.	As in Nova Scotia	2/3 of diminution of earnings for duration or may be based on impairment of earning capacity.	\$2500 per annum.









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